

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KHYRAH PHILPOTT, Individually and as Co-  
Personal Representatives of the Estate of  
Cameron Philpott; and CORY PHILLIPS,  
individually and as Co-Personal  
Representatives of the Estate of Cameron  
Philpott;

Plaintiffs,

vs.

AMSAFE, INC., SHIELD RESTRAINT  
SYSTEMS, INC., DOE COMPANIES #1-5,  
DOE INDIVIDUALS #1-5, and A JOINT  
VENTURE CONSISTING OF TWO OR  
MORE DEFENDANTS,

Defendants.

**8:20CV3112**

**FIFTH AMENDED  
FINAL PROGRESSION ORDER**

This matter is before the Court following the rescheduling of the Settlement Conference in this case. ([Filing No. 78](#).) Accordingly, for good cause shown,

IT IS ORDERED that the provisions of the Court's previous final progression orders shall remain in effect, and in addition to those provisions, progression shall be amended as follows:

- 1) The trial and pretrial conference will not be set at this time. The next telephone conference for the purpose of reviewing any outstanding issues that may be relevant prior to the settlement conference remains as scheduled and will be held on **July 5, 2023 at 10:00 a.m.** before the undersigned Magistrate Judge. Counsel shall use the telephone conferencing instructions assigned to this case to participate in the conference. ([Filing No. 25](#).)
- 2) All discovery, fact and expert, shall be completed by **August 22, 2023**.
- 3) The deadlines for identifying expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the defendant(s):  
Rebuttal:

**July 20, 2023**  
**August 3, 2023**

- 4) The deadlines for complete expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the defendant(s):  
Plaintiffs Rebuttal:

**July 20, 2023**  
**August 3, 2023**

- 5) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **August 22, 2023**.
- a. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is 10. Each Rule 30(b)(6) deposition shall count as one deposition, regardless of the number of designees that are designated to testify during such Rule 30(b)(6) deposition. In addition to such 10 depositions, Defendants as a group may depose each of Plaintiffs' experts and Plaintiffs as a group may depose each of Defendants' experts.
- b. Depositions will be limited by Rule 30(d)(1), except as follows: **Rule 30(b)(6) depositions may last for up to 11 hours.**
- 6) The deadline for filing motions to dismiss and motions for summary judgment is **August 31, 2023**.
- 7) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **August 31, 2023**.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 26<sup>th</sup> day of May, 2023.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge

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<sup>1</sup> While treating medical and mental health care providers are generally not considered “specially retained experts,” not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert’s treatment records and reports must be separately and timely disclosed.